

**UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE TENTH CIRCUIT**

IN RE MELANIE MILASINOVICH,
doing business as The Sacred Way,

Debtor.

BAP No. NM-14-005

MELANIE MILASINOVICH,

Appellant,

v.

FEDERAL NATIONAL MORTGAGE
ASSOCIATION,

Appellee.

Bankr. No. 13-12294
Chapter 7

DISMISSAL ORDER
April 10, 2014

Before THURMAN, Chief Judge, NUGENT, and SOMERS, Bankruptcy Judges.

The matter before the Court is the Brief for Interlocutory Appeal and Leave non pros and Order as Praecipe to Compel 28 U.S.C. §§ 1292(a) & (b) [id] partial and 28 U.S.C. 158 § (a)(1)(2)(3) and Rule 7019[] Joinder of Persons Needed for Just Determination [sic], filed by the pro se Appellant Melanie Milasinovich on February 10, 2014 (“Motion for Leave”). No response to the Motion for Leave has been filed by the Appellee Federal National Mortgage Association (“FNMA”).

For the reasons set forth below, the Motion for Leave is denied, and this appeal is dismissed.

I. Background

Appellant filed her Chapter 11 petition on July 9, 2013, and on October 31, 2013, Appellee filed a motion for relief from stay to obtain possession of real

property previously belonging to Appellant but which had been foreclosed upon prepetition. A hearing on the stay relief motion was set for January 27, 2014. On January 21, 2014, Appellant filed a motion to vacate the hearing, and on January 22, 2014 the bankruptcy court issued its Order Denying Debtor's Emergent Notice of Motion and Motion to Vacate Hearing January 27, 2014, and Denying Other Relief (the "Denial Order").

On February 4, 2010, Appellant filed a Notice for Interlocutory Appeal and Leave non pros[] [sic], thus commencing the above-captioned appeal, seeking review of the Denial Order.

II Discussion

Plainly, the Denial Order is not the final order in this case. It being an interlocutory order, this Court may exercise jurisdiction over the Denial Order only if leave of court is appropriate. 28 U.S.C. § 158(a)(3). We have stated:

Leave to hear appeals from interlocutory orders should be granted with discrimination and reserved for cases of exceptional circumstances. Appealable interlocutory orders must involve a controlling question of law as to which there is substantial ground for difference of opinion, and the immediate resolution of the order may materially advance the ultimate termination of the litigation. *See* 28 U.S.C. § 1292(b); Fed. R. Bankr. P. 8018(b); *American Freight Sys., Inc. v. Transport Ins. Co. (In re American Freight Sys., Inc.)*, 194 B.R. 659, 661 (D. Kan. 1996); *Intercontinental Enter., Inc. v. Keller (In re Blinder Robinson & Co.)*, 132 B.R. 759, 764 (D. Colo. 1991).

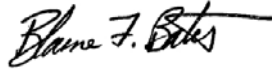
Personette v. Kennedy (In re Midgard Corp.), 204 B.R. 764, 769-70 (10th Cir. BAP 1997). The Appellant has not shown that leave to appeal the interlocutory Denial Order is appropriate, and indeed, any appeal taken from it would necessarily be dismissed as moot as the lift stay hearing has already taken place. Indeed, on February 19, 2014, the bankruptcy court entered its Order Granting [FNMA] Relief From the Automatic Stay, and Appellant has timely filed that order in BAP Appeal No. NM-14-010.¹

¹ The Court is in receipt of Appellant's Emergency Order to Show Cause and
(continued...)

Accordingly, it is HEREBY ORDERED that:

- (1) the Motion for Leave to Appeal is DENIED, and this appeal is DISMISSED.
- (2) To the extent that the Emergency Order to Show Cause seeks any relief from this Court, it is denied as MOOT.
- (3) Any deadlines previously set in this appeal are VACATED.

For the Panel:

A handwritten signature in black ink, appearing to read "Blaine F. Bates", with a stylized flourish at the end.

Blaine F. Bates
Clerk of Court

¹ (...continued)
an Emergency Order Granting Stay, filed on April 2, 2014 (“Emergency Order to Show Cause”). To the extent it seeks any injunctive relief from this Court, due to the instant dismissal of this appeal that filing is denied as moot.